

**BEFORE THE PUBLIC SERVICE COMMISSION
OF UTAH**

In the Matter of the Petition of
QWEST CORPORATION for Pricing
Flexibility for Residence Services in
the Areas Served by 44 Central
Offices

Docket No. 03-049-49

DIRECT TESTIMONY

OF

WILLIAM DUNKEL

ON BEHALF OF THE COMMITTEE OF CONSUMER SERVICES

SEPTEMBER 29, 2003

PUBLIC VERSION

1 **I. INTRODUCTION AND STATEMENT OF QUALIFICATIONS**

2
3 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

4 A. My name is William Dunkel. My business address is 8625 Farmington
5 Cemetery Road, Pleasant Plains, Illinois 62677.

6
7 **Q. WHAT IS YOUR PRESENT OCCUPATION?**

8 A. I am the principal of William Dunkel and Associates, which was
9 established in 1980. Since that time, I have provided extensive consulting
10 services in telephone regulatory proceedings throughout the country. I
11 have participated in over 140 state regulatory telephone proceedings
12 before over one-half of the state commissions in the United States. I
13 specialize in the following areas: cost analysis; rate design; jurisdictional
14 separations; and depreciation.

15
16 **Q. HAVE YOU PREPARED AN APPENDIX THAT DESCRIBES YOUR**
17 **QUALIFICATIONS?**

18 A. Yes. My qualifications are shown on Appendix A.

19
20 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

21 A. I am testifying on behalf of the Utah Committee of Consumer Services
22 (CCS).

23

1 **Q. HAVE YOU PREVIOUSLY PARTICIPATED IN TELECOMMUNICATIONS**
2 **PROCEEDINGS IN UTAH?**

3 A. Yes. I have participated on behalf of the CCS in many of Qwest's (previously
4 U.S. West Communications or Mountain Bell Telephone Company) proceedings
5 in Utah. I testified on behalf of the CCS in Qwest's last petition proceedings for
6 Pricing Flexibility in Utah (Docket Nos. 01-2383-01 (residential services) and 02-
7 049-82 (business services)). In addition, I was involved in six general rate cases,
8 Docket Numbers: 84-049-01, 88-049-07; 90-049-06/90-049-03; 92-049-07; 95-
9 049-05; 97-049-08. I was also involved in the Qwest 800 Services case, Docket
10 No. 90-049-05.

11

12 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

13 A. The purpose of my testimony is to respond to Mr. David Teitzel's July 1,
14 2003 Direct Testimony regarding the issue of sameness and
15 substitutability of flat rate, basic local residential exchange service (local
16 residential service) provided by certain CLECs referenced in Qwest's
17 filing.

18

19 **II. PRIOR CASE**

20

21 **Q. DO THE RESIDENTIAL WIRE CENTERS THAT QWEST IS**
22 **REQUESTING PRICING FLEXIBILITY FOR IN THIS CASE INCLUDE**
23 **THE SAME WIRE CENTERS THAT THE COMMISSION ADDRESSED**

1 **IN QWEST'S LAST PETITION FOR RESIDENTIAL PRICING**
2 **FLEXIBILITY IN UTAH (DOCKET NO 01-2383-01)?**

3 A. Yes. All 17 of the wire centers that were in the prior residential case are
4 also in this case. In the prior case the Commission Ordered that
5 residential pricing flexibility should only be granted in the geographic areas
6 where Comcast (then AT&T Broadband) offered local telecommunication
7 service. The Commission also price capped the residential services at the
8 existing rate. For residential services, the Commission found that:

9 "The record is also clear that the likely ability of the "market forces"
10 to perform the consumer protection function envisioned by the
11 Legislature is remote at best."¹
12

13 **Q. DID ALL OF THE CLECS SHOWN ON TEITZEL EXHIBIT DLT-3 HAVE**
14 **CERTIFICATES AND APPROVED INTERCONNECTION AGREEMENTS**
15 **WHEN QWEST'S DIRECT TESTIMONY IN ITS LAST RESIDENTIAL**
16 **PRICE FLEXIBILITY PROCEEDING WAS FILED?**

17 A. Yes.² All competitors on Exhibit DLT-3 that Qwest claims is providing
18 "same or substitutable" service to Qwest's local residential service in this
19 proceeding had already been granted certification and already had an
20 approved interconnection agreement with Qwest prior to the filing of
21 Qwest's October 25, 2002 Direct testimony in its last residential price
22 flexibility proceeding. All of them had also been granted certification and

¹ Page 11, "Residential Services" portion of the Commission Report and Order, Docket No. 01-2383-01, Dated January 28, 2003.

² Comcast was preceded by AT&T Broadband. An AT&T Broadband affiliate had an interconnection agreement, which AT&T Broadband used, according to testimony in the prior case (Teitzel Direct, Docket No. 01-2383-01, Page 10).

1 already had an approved interconnection agreement with Qwest prior to
2 the Commission's January 28, 2003 Order. The dates for each CLEC's
3 date of certification and interconnection agreement approval are shown on
4 Mr. Teitzel's Direct testimony Exhibit DLT-5.³

5
6 **III. NO COMPETITOR OFFERS A "SAME OR SUBSTITUTABLE" SERVICE**
7 **FOR QWEST'S LOCAL RESIDENTIAL LOCAL SERVICE IN QWEST'S**
8 **PROPOSED COMPETITIVE ZONES**

9
10 **Q. WHERE IS THE TERM "SAME OR SUBSTITUTABLE" USED IN THE**
11 **LAW?**

12 A. After referring to the CLEC services, paragraph 54-8b-2.3 (2) (b) (ii)
13 states:

14 In the proceeding, the commission shall, by order, grant pricing
15 flexibility to the incumbent telephone corporation for the same or
16 substitutable public telecommunications services in the same
17 geographic area.
18

19 **Q. ACCORDING TO QWEST, WHAT COMPETITORS ARE OFFERING**
20 **"SAME OR SUBSTITUTABLE" SERVICE FOR QWEST'S LOCAL**
21 **RESIDENTIAL SERVICE IN THE PROPOSED COMPETITIVE ZONES?**

22 A. Qwest claims that Comcast, MCI, McLeod, Z-Tel, Sprint, Excel, SBC and
23 VarTec are CLECs offering "same or substitutable" wireline residential

³See Direct testimony of David Teitzel in Docket No. 01-2383-01, filed October 25, 2002, pages 7-8.

1 services in Qwest's proposed competitive zones.⁴ They show the specific
2 CLEC services and rates on Teitzel Direct Exhibit DLT-3.

3

4 **Q. ARE ANY OF THE CLEC SERVICES LISTED IN QWEST'S TESTIMONY**
5 **"SAME OR SUBSTITUTABLE" FOR THE LOCAL RESIDENTIAL**
6 **SERVICE PROVIDED BY QWEST?**

7 A. No. None of these CLEC services are the "same or substitutable". All of
8 the CLEC services that Qwest listed have one or more of the following
9 major differences from the Qwest local residential service:

10

11 (1) **LOCAL SERVICE MUST BE PART OF A PACKAGE.** Many of the
12 CLECs only offer local service as part of a "package" that includes vertical
13 services and /or toll usage.

14

15 (2) **SIGNIFICANTLY HIGHER PRICED SERVICES.** Most of the
16 CLECs provide significantly higher priced services compared to Qwest's
17 local service. In some cases (but certainly not all), the higher price is due
18 to the fact that many CLECs only offer local service packaged with other
19 services, as discussed below. In many cases, CLECs will offer a less
20 valuable service for a higher price than Qwest offers. The Committee
21 agrees with the Division of Public Utilities (DPU), when it states that in
22 order for a CLEC service to be substitutable to Qwest's service, customers
23 must be able to obtain the CLEC service at "close to the same price" as

⁴Teitzel Direct, beginning at page 18, line 14, also Exhibit DLT-1.

1 they receive the service from Qwest.⁵ In Qwest's last business price
2 flexibility proceeding, the DPU testified about the importance of
3 considering the price of services when determining whether or not a CLEC
4 service is "same or substitutable" for Qwest's service. The DPU testified:

5 The Division has taken the position that it is important to look at the
6 price of the services as well as the description. To be "completely"
7 similar or substitutable, customers should be able to purchase the
8 service at close to the same price as they are receiving it from
9 Qwest.⁶
10

11 (3) **NO CHOICE OF PRESUBSCRIBED TOLL CARRIER.** Most of the
12 CLEC services that Qwest claims are "same or substitutable" require the
13 local service customer to obtain both their interLata and intraLata
14 presubscribed (1+) long distance services from the CLEC. In addition, the
15 CLECs often restrict the local service customer's choice to a limited list of
16 toll plans. However, Qwest's local service allows the customer to
17 presubscribe to any toll carrier and any toll plan for both interLata and
18 intraLata toll service.
19

20 (4) **INTERNET USE PROHIBITED.** Some of the CLECs prohibit using
21 their local service to access the internet, or limit the use of their local
22 service for internet access.
23

⁵ DPU Staff Exhibit 2.0, Docket No. 02-049-82, Direct Testimony of Casey J. Coleman, Division of Public Utilities, January 7, 2003, page 3, lines 11-14.

⁶DPU Staff Exhibit 2.0, Docket No. 02-049-82, Direct Testimony of Casey J. Coleman, Division of Public Utilities, January 7, 2003, page 3, lines 11-14.

1 Moreover, there is an additional potential difference that I am still
2 investigating:

3 **(5) SMALLER TOLL-FREE CALLING AREA THAN QWEST'S**
4 **LOCAL SERVICE.** It cannot be automatically assumed that the toll-free
5 local calling areas offered by the CLECs are the same as those provided
6 by Qwest's local service. We have found that at least one CLEC (USTel)
7 in Utah provides a smaller toll-free calling area than Qwest's local service
8 provides. Another CLEC's (Vartec) response indicates that it does not
9 provide the same EAS area that Qwest does. It is not clear at this time if
10 any other CLECs have a smaller toll-free calling area than Qwest.

11

12 All of the CLEC services that Qwest refers to have one or more of the
13 above problems. None of them are "same or substitutable" for Qwest's
14 local service. Each of the CLECs will be discussed below in more detail.

15

16 **Q. HAVE YOU ATTACHED A SCHEDULE TO YOUR DIRECT TESTIMONY**
17 **THAT SUMMARIZES THE COMPARISON ANALYSIS THAT YOU HAVE**
18 **CONDUCTED?**

19 A. Yes. Attached as Schedule WDA-1 is a summary of the comparison
20 analysis that I have conducted between Qwest's local residential service
21 and the CLEC services Qwest has claimed are "same or substitutable" for
22 Qwest's service. As Schedule WDA-1 demonstrates, none of the CLEC

1 service that Qwest listed in its Direct testimony in this proceeding are
2 "same or substitutable" for Qwest's local residential service.

3

4 **Q. WILL YOU PLEASE DESCRIBE QWEST'S LOCAL RESIDENTIAL**
5 **SERVICE OFFERING IN UTAH?**

6 A. Yes. Qwest provides flatrate local residential service (including non-
7 optional flat rate Extended Area Service) for a total rate that has a median
8 of \$13.90 and a weighted average of **[BEGIN PROPRIETARY]**
9 **[END PROPRIETARY]** per month for the wire centers in this case.⁷ Some
10 key aspects of Qwest's local residential service are:

11

- 12 • Qwest customers are allowed to select their choice of interLATA and
13 intraLATA presubscribed interexchange carrier (PIC). All 1+ interLATA
14 and intraLATA toll calls are carried by a customer's PIC.
- 15 • Qwest customers are allowed to purchase the local service as a stand-
16 alone service, outside of a "package". A customer is not required to
17 purchase local service as part of a "package" that includes toll and/or
18 vertical services.

⁷ \$9.23 for dial Tone Line, plus \$1.80 for flat rate local usage, plus EAS that has a median of \$2.87, and a weighted average of **[BEGIN PROPRIETARY]** **[END PROPRIETARY]** for the wire centers in this case. (Qwest Exchange and Network Services Tariff 5.2.3; 5.2.4; and 5.1.1. Weighted by line counts from Exhibit DTL-10).

- 1 • Qwest’s local residential service allows customers to place unlimited
2 calls within their local calling and Extended Area Service (EAS) calling
3 area for a non-optional fixed monthly charge⁸.
- 4 • Qwest’s local residential service includes unlimited calling to an internet
5 service provider (ISP), as long as the ISP is located within the
6 customer's local calling area or EAS area.
- 7 • Qwest’s local residential service has a median rate of \$13.90 and a
8 weighted average rate of **[BEGIN PROPRIETARY]** **[END**
9 **PROPRIETARY]** per month for the wire centers in this case. This rate
10 includes the non-optional, flat rate EAS charge.

11

12 **Q. HOW MANY OF QWEST'S COMPETITORS PROVIDE "SAME OR**
13 **SUBSTITUTABLE" SERVICE TO QWEST'S LOCAL RESIDENTIAL**
14 **SERVICE IN QWEST'S PROPOSED COMPETITIVE ZONES?**

15 A. None of the CLEC services that Qwest presents are “same or
16 substitutable” for Qwest's local residential service.

17

18 **VARTEC**

19

20 **Q. DOES VARTEC PROVIDE "SAME OR SUBSTITUTABLE" SERVICE TO**
21 **QWEST'S LOCAL RESIDENTIAL SERVICES IN THE PROPOSED**
22 **COMPETITIVE ZONES?**

⁸ If the customer is in an exchange where there is EAS.

1 A. No. According to Mr. Teitzel's Direct Exhibit DLT-1, VarTec offers "same
2 or substitutable" residential services in **[BEGIN PROPRIETARY]**
3 **[END PROPRIETARY]** of Qwest's 44 proposed residential competitive
4 zones. However, the \$19.95 Vartec "One Choice Premium Package"
5 service rate that Mr. Teitzel refers to cannot be considered "same or
6 substitutable". First of all, the \$19.95 charge for the service is over 43%
7 higher than Qwest's \$13.90 median (**[BEGIN PROPRIETARY]**
8 **[END PROPRIETARY]** weighted average) charge for flat rate local
9 residential service. Therefore, it would make no economic sense for a
10 customer to subscribe to this service instead of Qwest's service offering.
11 The existence of this service does not represent price constraining
12 competition to Qwest's local residential service.

13
14 VarTec's local service customers must also select VarTec as their primary
15 service provider for intraLATA and interLATA toll services under the
16 \$19.95 offering. Attached as Schedule WDA-2 are pages from VarTec's
17 Price List that describes "One Choice Premium Package" service. As this
18 Schedule indicates, customers who subscribe to "One Choice Premium
19 Package" service "must select VTI as the primary service provider for local
20 exchange, intraLATA interexchange and interLATA interexchange"
21 services.⁹

⁹ "VTI" is an abbreviation for VarTec Telcom, Inc.

1 When subscribing to Qwest's local residential service, a customer is not
2 required to select Qwest as their primary long distance provider. The
3 customer has a choice of primary carriers for both interLATA and
4 interLATA toll services.

5

6 **Q. YOU POINTED OUT THAT MANY OF THE CLEC SERVICES REQUIRE**
7 **CUSTOMERS TO PURCHASE LOCAL SERVICE BUNDLED ALONG**
8 **WITH THE CLEC LONG DISTANCE SERVICE. IS IT VALUABLE TO A**
9 **CLEC TO REQUIRE THE LOCAL CUSTOMER TO SUBSCRIBE TO**
10 **THE CLEC'S LONG DISTANCE SERVICE?**

11 A. Yes. VarTec's price list indicates that forcing a customer to select the
12 CLEC as the primary long distance carrier has a value of at least \$10.00
13 per month per line. In response to the Committee's discovery, VarTec
14 indicated that it charges \$29.95 per month for local residential service
15 that allows the customer to select another provider for long distance
16 service. That service includes no vertical services or toll allowance.

17

18 However VarTec charges \$10.00 less, \$19.95, for its "One Choice
19 Premium Package" that does **not** allow a choice of toll carriers. The
20 \$19.95 service includes local residential service, as well as anonymous
21 Call Rejection, Caller ID-name and number, Call Waiting, and 100 free
22 domestic long distance minutes. However, the residential customer must
23 have VarTec as their presubscribed long distance carrier. VarTec stated,

1 “The reason One Choice Premium Package costs less than the Basic
2 Residential Local Service is due to it is a bundled package with VarTec to
3 encourage subscribers to have the Company for local and long distance
4 services.”

5 VarTec's responses state the following:

6

7

8

Response 1.1

9

10 VarTec offers the Basic Residential Local Service for \$29.95 per
11 month. This service includes dial tone, dual tone multi-frequency
12 (DTMF - i.e. touchtone) and rotary signaling, access to long
13 distance services, and unlimited local calling within the standard
14 local calling area. The Basic Residential Local Service allows the
15 subscriber to choose another provider for long distance service.

16

17

Response 1.1.1

18

19

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Clearly, eliminating the presubscription choices is a major difference in
services, as can be seen from the above \$10.00 price difference. VarTec
charges \$10.00 less per month for the service that includes additional
features but does not allow customer choice of long distance carriers.

33

34

**Q. DOES VARTEC ACTIVELY OFFER THE \$19.95 SERVICE TO THE
PUBLIC?**

35

1 A. No. I visited the VarTec website (www.vartec.com). Attached as Schedule
2 WDA-3 is a copy of a page from VarTec's website that describes the
3 residential packages the company offers in Utah. As this Schedule
4 shows, there is no mention of a "One Choice Premium Package", or any
5 other package for \$19.95. Instead, the website offered various other local
6 service offerings that were packaged with other services, with prices that
7 ranged from \$29.95 to \$49.95 per month.

8
9 I called a VarTec customer representative and asked where I could find
10 information about its "One Choice Premium Package" (this is the \$19.95
11 service Qwest listed on Mr. Teitzel's Exhibit DLT-3). ¹⁰ The representative
12 indicated I would not find information about that service on the VarTec
13 website. The representative indicated that they "do not normally offer" the
14 "One Choice Premium Package" service, and "only offer it if people ask
15 about it."

16

17 **Q. IN RESPONSE TO DISCOVERY REQUESTS, DID VARTEC INDICATE**
18 **THAT IT DOES NOT PROVIDE EAS EQUIVALENT TO THE EAS**
19 **SERVICE PROVIDED QWEST?**

20 A. Yes. In response to discovery, Vartec specifically indicated that it does
21 not offer EAS that is equivalent to the service provided by Qwest.
22 Vartec's response is attached hereto as Schedule WDA-9.

23

¹⁰VarTec's phone number is (800) 779-2235. I called on 8/28/03.

1 **MCI**

2

3 **Q. ACCORDING TO QWEST, WHICH MCI SERVICE IS "SAME OR**
4 **SUBSTITUTABLE" TO QWEST'S LOCAL RESIDENTIAL SERVICES IN**
5 **QWEST'S PROPOSED COMPETITIVE ZONES?**

6 A. According to Mr. Teitzel's Direct Exhibit DLT-1, MCI offers "same or
7 substitutable" residential services in **[BEGIN PROPRIETARY]** **[END**
8 **PROPRIETARY]** of Qwest's 44 proposed residential competitive zones.

9 On page 20 of his Direct, Mr. Teitzel states:

10 MCI offers residential local exchange service with unlimited local
11 calling for \$19.99 per month.
12

13

14

15 The \$19.99 rate Mr. Teitzel refers to is the rate for "Residential RLD
16 Service", as is shown on Teitzel Exhibit DLT-3.

17

18 **Q. IS THIS MCI SERVICE "SAME OR SUBSTITUTABLE" FOR THE**
19 **QWEST LOCAL SERVICE?**

20 A. No. The \$19.99 MCI charge for local residential service is over 43% higher
21 than Qwest's \$13.90 median (**[BEGIN PROPRIETARY]** **[END**
22 **PROPRIETARY]** weighted average) charge for this service. Therefore, as
23 is true for the case of VarTec, it would make no economic sense for a
24 customer to subscribe to this service instead of Qwest's service offering.
25 The existence of this service does not represent price constraining
competition to Qwest's local residential service. Secondly, it is unlikely

1 that many customers are even aware of the existence of this service.
2 While this service does appear in the MCI Metro Price List, it is not
3 mentioned anywhere on the MCI website. In fact, I had an associate call
4 an MCI customer service representative to ask about this service, and
5 even the MCI representative said that every local residential service
6 offering he was aware of is bundled with long distance and/or other
7 services. He indicated that he was not aware of a stand-alone local
8 residential service offering.

9

10 **Q. ON PAGE 20 OF HIS DIRECT, MR. TEITZEL DISCUSSES SEVERAL**
11 **OTHER MCI "NEIGHBORHOOD" PLANS THAT PACKAGE LOCAL**
12 **RESIDENTIAL SERVICE WITH VARIOUS VERTICAL FEATURES AND**
13 **TOLL SERVICES THAT RANGE FROM \$28.99 TO \$49.99 PER**
14 **MONTH. ARE THESE "SAME OR SUBSTITUTABLE" ALTERNATIVES**
15 **TO QWEST'S LOCAL RESIDENTIAL SERVICE?**

16 **A.** No. These are packages that include other services, and have a price that
17 is not comparable to Qwest's basic local service. Quite simply, none of
18 these MCI services are reasonably considered "same or substitutable"
19 alternatives to Qwest's local residential service.

20

21 **Q. DOES MCI PLACE A LIMIT ON HOW MUCH A BASIC LOCAL**
22 **EXCHANGE CUSTOMER CAN USE THEIR SERVICE FOR**
23 **CONNECTING TO THE INTERNET?**

1 A. Yes. According to the MCImetro Price List, the MCI service that Mr.
2 Teitzel refers to on his Exhibit DLT-3 places an unspecified "reasonable
3 limit" on usage for dial-up internet service. The referenced page from the
4 MCI price list is attached as Schedule WDA-4.

5
6 **COMCAST**

7
8 **Q. IN QWEST'S LAST RESIDENTIAL PRICE FLEXIBILITY PROCEEDING,**
9 **THE COMMISSION FOUND THAT AT&T BROADBAND (NOW**
10 **COMCAST) WAS PROVIDING A SAME OR SUBSTITUTABLE**
11 **SERVICE FOR QWEST'S LOCAL RESIDENTIAL SERVICE. DOES**
12 **COMCAST STILL OFFER THAT SERVICE TO NEW CUSTOMERS?**

13 A. No. According to the record in the prior residential price flexibility case,
14 AT&T Broadband (now Comcast) was providing a service that was called
15 "Basic Local", for \$14.25 per month "which did not include any features or
16 long distance options".¹¹ This service appeared to be a "same or
17 substitutable" alternative to Qwest's local residential service. In fact it
18 was priced slightly lower than the Qwest local service, which was priced at
19 \$14.48¹².

20

¹¹ Quotation from Teitzel Exhibit DLT -6 in the **prior** residential proceeding, Docket No. 01-2383-01. Also AT&T Broadband Phone of Utah, LLC, Telecommunications Services Price List, Section 5, page 3, Release 1, Effective April 28, 2002.

¹² Page 8, Direct Testimony of William Dunkel, Docket No. 01-2383-01.

1 However, Comcast's current Price List indicates that the Basic Local Only
2 Offer "is no longer available for selection". Comcast's Price List indicates
3 that the service has been grandfathered to existing customers.
4

5 **Q. WHAT LOCAL RESIDENTIAL SERVICES DOES COMCAST**
6 **CURRENTLY OFFER TO NEW CUSTOMERS?**

7 A. Comcast now only offers local residential service as part of a "package" of
8 services: the customer must select Comcast to be their primary toll carrier
9 for both interLATA and intraLATA toll. The page from the Comcast Price
10 List showing the service available to new customers is attached as
11 Schedule WDA-8.

12
13 According to the current Comcast Price List, the residential customer must
14 purchase a "Primary Access Line" for \$14.90 and a "Usage Component"
15 for toll services. The customer must choose from the following "Usage
16 Components" for Comcast provided toll services: (1) "180 Minute Block of
17 Time" for \$13.95; (2) "300 Minute Block of Time"¹³ for \$19.95 per month;
18 or (3) a "\$0.07 By the Minute Plan" for a fixed charge of \$2.95 per month,
19 plus \$0.07 per minute.¹⁴ Therefore, the lowest rate that a new customer

¹³ Under the "Block of Time", Plans Section 9.3.2 of Comcast's Price List states "Unused portions of the allowance will not be credited to a Customers account, carried over to another billing cycle, or transferred to another account.

¹⁴ Comcast Phone of Utah, LLC, Telecommunications Price List, Section 5, Pages 6.2, Release 1, Effective August 27, 2003.

1 can obtain for local residential service from Comcast is \$17.85 (\$14.90
2 plus \$2.95).¹⁵

3

4 Clearly, the service offered by Comcast is not "same or substitutable" for
5 Qwest's local residential service. Comcast's rate is now **[BEGIN**
6 **PROPRIETARY]** **[END PROPRIETARY]** higher than the weighted
7 average of Qwest's residential rate of **[BEGIN PROPRIETARY]**
8 **[END PROPRIETARY]** per month for the wire centers in this case.¹⁶ In
9 addition, the customer must select Comcast as their primary carrier for
10 both interLATA and intraLATA toll.

11

12 **MCLEOD**

13

14 **Q. DOES MCLEOD PROVIDE "SAME OR SUBSTITUTABLE" SERVICE**
15 **TO QWEST'S LOCAL RESIDENTIAL SERVICES?**

16 A. No. According to Mr. Teitzel's Direct Exhibit DLT-1, McLeod offers "same
17 or substitutable" residential services in **[BEGIN PROPRIETARY]** **[END**
18 **PROPRIETARY]** of Qwest's 44 proposed residential competitive zones.
19 The \$23.95 McLeod service rate that Mr. Teitzel refers to is the "OneLine
20 Preferred Package".

¹⁵ Plus the Federal Subscriber Line Charge (SLC), as well as all applicable taxes and surcharges.

¹⁶ \$9.23 for dial Tone Line, plus \$1.80 for flat rate local usage, plus EAS that has a median of \$2.87, and a weighted average of **[BEGIN PROPRIETARY]** **[END PROPRIETARY]** for the wire centers in this case. (Qwest Exchange and Network Services Tariff 5.2.3; 5.2.4; and 5.1.1. Weighted by line counts from Exhibit DTL-10).

1 **Q. IS THIS “SAME OR SUBSTITUTABLE” FOR QWEST’S LOCAL**
2 **SERVICE?**

3 **A.** No. Mcleod’s customers do not have a choice of primary long distance
4 carriers for either their interLATA or intraLATA toll. They must select
5 McLeod as their primary toll carrier. In section 3.1.3 of its price list No. 1,
6 McLeod’s description of the Local Service Packages states:

7 Residential customers shall select a long distance package of
8 anytime minutes for each location, which shall be shared by all
9 lines serving the Customer location.

10
11 Section 3.5 of McLeod's Price List states:

12 A Customer must also select McLeodUSA as their primary
13 interexchange carrier for both Interstate and Intrastate long
14 distance.

15
16 Eliminating the customer’s ability to choose a long distance carrier is a
17 significant difference in service.

18 The price for McLeod's service is \$23.95. However, we believe that
19 McLeod does not add an End User Common Line Charge (EUCL, also
20 sometimes called SLC). All other CLECs addressed in this case, and
21 Qwest, do add a EUCL charge. Currently Qwest’s residential primary line
22 EUCL is \$6.50. Even after we adjust the McLeod rate for the different
23 treatment of EUCL, it is still higher than Qwest's \$13.90 median **([BEGIN**
24 **PROPRIETARY] [END PROPRIETARY]** weighted average) rate for
25 local residential service.

26

27

1 **Z-TEL**

2

3 **Q. DOES ZTEL PROVIDE "SAME OR SUBSTITUTABLE" SERVICE TO**
4 **QWEST'S LOCAL RESIDENTIAL SERVICE IN QWEST'S PROPOSED**
5 **COMPETITIVE ZONES?**

6 A. No. According to Mr. Teitzel's Direct Exhibit DLT-1, Z-Tel offers "same or
7 substitutable" residential services in **[BEGIN PROPRIETARY]** **[END**
8 **PROPRIETARY]** of Qwest's 44 proposed residential competitive zones.
9 However, the \$59.99 Z-Tel service rate that Mr. Teitzel refers to is more
10 than **four times** the Qwest residential basic exchange rate. The median of
11 Qwest's local residential rate is \$13.90 and the weighted average is
12 **[BEGIN PROPRIETARY]** **[END PROPRIETARY]** per month for the
13 wire centers in this case.¹⁷ This includes the non-optional EAS rate.
14 In addition, Z-Tel does not offer local residential service outside of a
15 package of services. Z-Tel's Price List states:

16 Z-Tel offers basic local exchange service only as a part of a bundle
17 or package of telecommunications services. All packages include
18 local service, long distance service (interstate and intrastate toll)
19 and selected custom calling features.¹⁸
20
21

¹⁷ \$9.23 for dial Tone Line, plus \$1.80 for flat rate local usage, plus EAS that has a has a median of \$2.87, and a weighted average of **[BEGIN PROPRIETARY]** **[END PROPRIETARY]** for the wire centers in this case. (Qwest Exchange and Network Services Tariff 5.2.3: 5.2.4: and 5.1.1. Weighted by line counts from Exhibit DTL-10).

¹⁸ The above-referenced section of Z-Tel's Price List is attached hereto as Schedule WDA-5.

1 As shown on Z-Tel's price list, a customer does not have a choice of
2 primary long distance carriers for either their interLATA or intraLATA toll.
3 Eliminating the customer's ability to choose a long distance carrier is a
4 significant difference in service.

5
6 Lastly, Z-Tel's Price List indicates that its unlimited local services cannot
7 be used for dial-up internet connections. This relevant page from Z-Tel's
8 Price List is attached hereto as page 2 of Schedule WDA-5. This page of
9 the Price List states:

10 This service is for use by Residential Customers for the purpose of
11 individual-to-individual two-way residential voice applications. If the
12 Customer uses Z-Line Unlimited Service for non-residential
13 purposes, including but not limited to commercial facsimile, resale
14 telemarketing, **dial-up internet connections**, autodialing, three-
15 way calling, voice chat line services, or home office use, the
16 Company may, without notice, suspend, restrict, or cancel the
17 Customer's service or may adjust Customer's service to another
18 plan (emphasis added).
19

20 For the above reasons, therefore, service provided by Z-Tel is not "same
21 or substitutable."

22

23 **SPRINT**

24

25 **Q. DOES SPRINT PROVIDE "SAME OR SUBSTITUTABLE" SERVICE TO**
26 **QWEST'S LOCAL RESIDENTIAL SERVICES?**

27 A. No. According to Mr. Teitzel's Direct Exhibit DLT-1, Sprint offers "same or
28 substitutable" residential services in **[BEGIN PROPRIETARY]** **[END**

1 **PROPRIETARY]** of Qwest's 44 proposed residential competitive zones.
2 However, the \$44.99 Sprint service rate that Mr. Teitzel refers to is more
3 than **three times** Qwest's local residential rate. Qwest's local service has
4 a median residential local rate of \$13.90, and a weighted average of
5 **[BEGIN PROPRIETARY] [END PROPRIETARY]** per month for
6 the wire centers in this case.

7
8 This Sprint service does allow customers to presubscribe to the long
9 distance carrier of their choice, but the substantial price differential makes
10 this service very different from the Qwest's local service.¹⁹

11
12 In addition, Sprint completely prohibits the use of its Local Exchange
13 Service for connection to the Internet or for the use of transmitting fax
14 documents. Any use of Sprint's local exchange service for internet use or
15 for fax transmission is subject to additional charges or disconnection.
16 Sprint's Price List specifically states:

17 The customer may not use this service for commercial use, for
18 connection to the internet, for other data service (including facsimile
19 transmissions) or for any other use that does not involve a person-
20 to-person conversation or voice message.

21
22 If it is determined that usage is not consistent with residential voice
23 applications, the customer's service may be assessed a \$50.00
24 monthly recurring Data Usage Charge or may be disconnected.
25

26
27

¹⁹ Section 4.1 of Sprint's Utah Price List No. 2.

1 **EXCEL**

2

3 **Q. DOES EXCEL PROVIDE "SAME OR SUBSTITUTABLE" SERVICE TO**
4 **QWEST'S LOCAL RESIDENTIAL SERVICES IN QWEST'S PROPOSED**
5 **COMPETITIVE ZONES?**

6 A. No. According to Mr. Teitzel's Direct Exhibit DLT-1, Excel offers "same or
7 substitutable" residential services in **[BEGIN PROPRIETARY] [END**
8 **PROPRIETARY]** of Qwest's 44 proposed residential competitive zones.

9 On page 22 of his Direct, Mr. Teitzel states:

10 Excel offers local exchange service on a stand-alone basis or as
11 part of a package. Excel's MyLine StandAlone Local Service is
12 priced at \$30.00 per month. Excel's MyLine Basic Local Service
13 Package, consisting of a single line with Touch Tone, Call Waiting,
14 Call Return, and Three-Way Calling, is \$29.95 per month.
15 Additional packages with more feature components are also
16 available.
17

18 However, the Excel service offerings are not "same or substitutable" to
19 Qwest's local residential service. First of all, the \$30.00 "Stand-Alone"
20 Excel service rate that Mr. Teitzel refers to is more than **double** Qwest's
21 local residential service rate.

22

23 Second, the Excel service with a monthly rate of \$29.95 is for a **package**
24 of services that includes includes unlimited local calling, Call Waiting, Call
25 Return and Three-way calling.
26

1 Thus, neither the stand-alone nor the packaged service options of Excel
2 represent "same or substitutable" service to Qwest's local residential
3 service.

4

5 **Q. DOES EXCEL PLACE A LIMIT ON HOW MUCH A BASIC LOCAL**
6 **EXCHANGE CUSTOMER CAN USE THEIR SERVICE FOR**
7 **CONNECTING TO THE INTERNET?**

8 A. Yes. In CCS Data Request 2.2, I asked Excel if the service Mr. Teitzel
9 referenced in his testimony placed any limit in internet access. In
10 response to that Request, Excel stated the following:

11 If the customer's usage, particularly with respect to data services,
12 exceeds the customary usage of a residential customer, Excel
13 would reserve the right enforce limitations to minimize exposure to
14 fraudulent use of service.
15

16 **SBC**

17

18 **Q. DOES SBC PROVIDE "SAME OR SUBSTITUTABLE" SERVICE TO**
19 **QWEST'S LOCAL RESIDENTIAL SERVICES IN QWEST'S PROPOSED**
20 **COMPETITIVE ZONES?**

21 A. No. According to Mr. Teitzel's Direct Exhibit DLT-1, SBC offers "same or
22 substitutable" local residential services in **[BEGIN PROPRIETARY]**
23 **[END PROPRIETARY]** of Qwest's 44 proposed residential competitive
24 zones. However, the \$30.00 SBC service rate that Mr. Teitzel refers to is
25 not only more than **double** Qwest's local residential service rate, the rate

1 is for a **package** of services called "SBC Phone Solutions for Residence"
2 which includes basic exchange service, as well as a large number of
3 vertical services²⁰.
4

5 Attached as Schedule WDA-6 is a copy of SBC's Utah Price List that
6 shows that the "SBC Phone Solution for Residence" includes 16 vertical
7 features, such as Caller ID, Call Waiting, Call Forwarding and Three-Way
8 Calling, and other vertical features.
9

10 SBC's \$30.00 local residential service package offering is clearly not
11 "same or substitutable" to Qwest's local residential service.
12

13 **1-800-RECONEX (d/b/a USTel)**
14

15 **Q. ON YOUR SCHEDULE WDA-1, YOU HAVE INCLUDED A COMPANY**
16 **CALLED 1-800-RECONEX (D/B/A USTel). DOES USTEL PROVIDE**
17 **"SAME OR SUBSTITUTABLE" SERVICE TO QWEST'S LOCAL**
18 **RESIDENTIAL SERVICES IN QWEST'S PROPOSED COMPETITIVE**
19 **ZONES?**

20 **A.** No. USTel does not offer a stand-alone local residential service. USTel's
21 Price List states:

22 USTel offers basic local exchange service only as part of a bundle
23 or package of telecommunications services. All packages include
24 local service, long distance service (interstate and intrastate toll)

²⁰ Section 4.6 of SBC P. S. C.Utah Price List No. 1.

1 and selected custom calling features. Voice mail and Optional
2 Internet access may be available with some packages at an
3 additional charge. The aforementioned services are only available
4 as part of the bundled service offering and are not available on an
5 individual service basis.²¹
6
7

8 The lowest priced service that USTel offers which includes unlimited local
9 residential service is the "Community Choice Plan". That service is priced
10 at \$19.95 per month in Zones 1 and 2 and \$29.95 in Zone 3. This is a
11 packaged service that includes 30 minutes of long distance service, Call
12 Waiting and Caller ID.²²
13

14 USTel local residential services customers do not have a choice of
15 primary long distance carriers for either their interLATA or intraLATA toll.
16 The must select USTel as their primary toll carrier. Eliminating the
17 customer's ability to choose a long distance carrier is a significant
18 difference, as previously discussed.
19

20 USTel also places a limit on a customer's use of basic local service for
21 data service, including internet connection.²³
22

²¹ 1-800-RECONEX, Inc., d/b/a USTel, Utah Price List No. 3, Section 4, Original page 3, Effective April 28, 2003.

²² 1-800-RECONEX, Inc., d/b/a USTel, Utah Price List No. 3, Section 4, 1st Revised Page 6, Effective August 11, 2003.

²³ 1-800-Reconex (d/b/a USTel) response to CCS Data Request 2.1.

1 **Q. EARLIER IN THIS TESTIMONY, YOU SAID THAT IT CANNOT BE**
2 **AUTOMATICALLY ASSUMED THAT THE TOLL-FREE CALLING**
3 **AREAS PROVIDED BY CLECS ARE THE SAME AS THOSE**
4 **PROVIDED BY QWEST. IS THE USTEL SERVICE OFFERING AN**
5 **EXAMPLE OF THIS PROBLEM?**

6 **A.** Yes. In response to CCS Data Request 1.3, USTel indicated that its toll-
7 free calling area is smaller than Qwest's toll-free calling area. Below is our
8 discovery request, and USTel's response to that request:

9

10 Request 1.3: Do the customers of this service have unlimited calling just
11 throughout their exchange, or do they also have unlimited
12 calling throughout the areas that for a Qwest customer would
13 be the EAS exchanges? (If the answer is neither of these,
14 then please explain).

15 Response: Neither. Customers can call more than just their own
16 exchange but have less areas than what the Qwest EAS
17 would be. See Table 1.1 for specific NPANXXs that would be
18 local calls.

19

20 **Q. DO YOU INTEND TO CONTINUE TO ATTEMPT TO DETERMINE**
21 **WHETHER OTHER CLEC SERVICE OFFERINGS HAVE SMALLER**
22 **TOLL-FREE CALLING AREAS THAN QWEST'S LOCAL SERVICE**
23 **OFFERING?**

1 A. Yes. I intend to continue to look into this issue to determine which CLEC's
2 have smaller toll-free calling areas than Qwest. To date we have received
3 conflicting information pertaining to the toll-free calling areas of some of
4 the other CLECs.

5
6 **IV. WIRELESS CARRIERS**

7
8 **Q. WHAT IS ONE OF THE REQUIREMENTS UNDER THE UTAH CODE**
9 **THAT MUST BE MET PRIOR TO PRICING FLEXIBILITY BECOMING**
10 **EFFECTIVE?**

11 A. As the Commission properly indicated in its Order in the last Pricing
12 Flexibility proceeding, the Commission must issue a CLEC a certificate to
13 compete with Qwest as one condition before pricing flexibility can become
14 effective for Qwest.²⁴ This requirement is in Section 54-8b (2) (iii)(A) of the
15 Utah Public Utilities Statute.

16
17 **Q. HAS THE COMMISSION ISSUED A CERTIFICATE TO ANY OF THE**
18 **WIRELESS CARRIERS THAT QWEST HAS IDENTIFIED IN THIS**
19 **PROCEEDING?**

20 A. No. In discovery, I asked Qwest if any of the wireless carriers Mr. Teitzel
21 discussed in his testimony had been issued a certificate to compete with
22 Qwest in Utah. In response to that discovery, Qwest indicated that no

²⁴ Report and Order in Docket No. 02-049-82, et. al., issued January 28, 2003, pages 4-5.

1 wireless carrier has been issued a certificate to compete with Qwest in
2 Utah. In its response, Qwest stated:

3 Qwest affirmatively states that upon information and belief, none of
4 the wireless carriers has been certificated.²⁵
5

6 Thus, the wireless carriers do not meet the requirements to be considered
7 when addressing price flexibility for Qwest.
8

9 **Q. ON PAGE 26, LINE 9 OF HIS DIRECT, MR. TEITZEL CLAIMS THAT**
10 **"WIRELESS CARRIERS OFFER SERVICES THAT ARE**
11 **SUBSTITUTABLE FOR THE LOCAL RESIDENTIAL SERVICES QWEST**
12 **IS PROPOSING BE GRANTED PRICING FLEXIBILITY IN THE**
13 **PROPOSED COMPETITIVE ZONES." HAS THE FCC RECENTLY**
14 **RULED THAT WIRELESS SERVICE IS NOT A "SUBSTITUTE" FOR**
15 **WIRELINE SERVICE?**

16 **A.** Yes. The FCC has very recently ruled that wireless is not a "substitute"
17 for wireline telephone service. In its August 21, 2003 "Triennial Review"
18 Order, the FCC stated:

19 Neither wireless nor cable has blossomed into a full substitute for
20 wireline telephony.²⁶
21

22 In ¶230 of the same Order, the FCC stated:

23
24 In addition, the record demonstrates that, although promising,
25 wireless CMRS²⁷ connections in general do not yet equal traditional

²⁵ Qwest's response to CCS Data Request 3-3.

²⁶ Report and Order on Remand and Further Notice of Proposed Rulemaking, FCC 03-36, CC Docket No. 01-338 et. al. (Triennial Review Order), Adopted February 20, 2003, Released August 21, 2003, ¶245.

²⁷ "CMRS" (Commercial Mobile Radio Service) is another term for wireless carriers.

1 landline local loops in their quality, their ability to handle data traffic,
2 and their ubiquity.

3
4
5 In ¶445 of the same Order, the FCC stated:

6
7 We also find that, despite evidence demonstrating that narrowband
8 local services are widely available through CMRS providers,
9 wireless is not yet a suitable substitute for local circuit switching. In
10 particular, only about three to five percent of CMRS subscribers
11 use their service as a replacement for primary fixed voice wireline
12 service, which indicates that wireless switches do not yet act
13 broadly as an intermodal replacement for traditional wireline circuit
14 switches. Lastly, the record demonstrates that wireless CMRS
15 connections in general do not yet equal traditional landline facilities
16 in their quality and their ability to handle data traffic.(footnotes
17 excluded)

18
19
20 In footnote 1549 to that Order the FCC states:

21
22 In deciding whether to include intermodal alternatives for purpose
23 of these triggers, states should consider to what extent services
24 provided over these intermodal alternatives are comparable in
25 costs, quality, and maturity to incumbent LECs services.[footnote
26 omitted] For example, we note that CMRS does not yet equal
27 traditional incumbent LECs services in its quality, its ability to
28 handle data traffic, its ubiquity, and its ability to provide broadband
29 services to the mass market [footnote omitted]. Thus, just as CMRS
30 deployment does not persuade us to reject our nationwide finding
31 of impairment, at this time we do not expect state commissions to
32 consider CMRS providers in their application of the triggers.

33
34 The FCC has very recently ruled that wireless is not a substitute for
35 normal (wireline) telephone service.

36
37 **Q. ON PAGE 29 OF HIS DIRECT, MR. TEITZEL REFERS TO A SURVEY**
38 **THAT CONCLUDED "NEARLY 50 PERCENT OF U S HOUSEHOLDS**
39 **WOULD BE PREPARED TO SWITCH FROM A WIRELINE SERVICE TO**
40 **A FAMILY SHARE WIRELESS OPTION WITH 600 SHARED BASE**

1 **MINUTES OFFERED AT \$50 PER MONTH." IS THIS A REALISTIC**
2 **RESULT?**

3 A. No. Such plans, or plans close to that, are available from the wireless
4 carriers, but very few customers have replaced their wireline service with
5 wireless. The "survey" results are not reflective of the real world.

6
7 In the wire centers where Qwest is requesting residential price flexibility,
8 Qwest's own data shows that it has only lost an average of **[BEGIN**
9 **PROPRIETARY] [END PROPRIETARY]** of residential access lines to
10 wireless competition. This is shown on Schedule WDA-7.

11 In addition, Mr. Teitzel attached a Press Release as Exhibit DLT-12 of his
12 Direct that states:

13 According to the Yankee Group's 2002 Mobile User Study, only
14 three percent of wireless customers have gone completely wireless.
15 The evidence clearly indicates that only a very small percentage of
16 households subscribe to only wireless service in Utah and in the nation.

17 According to Mr. Teitzel's Direct Exhibit DLT-1, most of the wire centers
18 where Qwest is requesting residential pricing flexibility have **[BEGIN**
19 **PROPRIETARY] [END PROPRIETARY]** wireless carriers providing
20 coverage. The simple fact is that the vast majority of wireless customers
21 uses the wireless service as a mobile service, but relies on wireline
22 service in their homes and businesses.

23

1 In addition, wireless service generally charges for both incoming and
2 outgoing usage. Assuming a 50/50 split of incoming and outgoing traffic, a
3 wireless 600 minute allowance would allow only 300 minutes a month of
4 outgoing calls. However for wireline telephone service, the customer is
5 normally only responsible for outgoing traffic. On wireline telephone
6 service, local outgoing traffic averages over 1,600 minutes per month per
7 line, according to FCC data.²⁸

8

9 **Q. WHAT DO YOU RECOMMEND?**

10 A. Qwest's local residential service should not be flexibly priced. The
11 evidence in the prior case was that Comcast (then AT&T Broadband)
12 offered "stand alone" local telephone service in certain geographical areas
13 that was similar to the Qwest local service, and at a comparable price.
14 Because of that evidence in the prior case, I proposed that price flexibility
15 should be implemented, with a cap, in the geographic areas service by
16 Comcast telephone service.²⁹

17

18 However, Comcast no longer offers "stand alone" local service to new
19 customers. Its price list shows that local service is now offered to new
20 customers only as part of a package, which requires the customer to have
21 Comcast as their primary toll carrier. "Stand alone" local service from
22 Comcast is "grandfathered" only to existing customers.

²⁸ Trends in Telephone Service, Industry Analysis and Technology Division, Wireline Completion Bureau, FCC, August, 2003. Table 10.2 shows 56 minute per day local usage.

²⁹ Dunkel Direct Testimony in Docket No. 01-2383-01, page 17, lines 16-19.

1 As previously discussed, no CLEC is now offering a local residential
2 service that is "same or substitutable" for Qwest's local service. Even
3 Comcast no longer offers a same or substitutable service to the Qwest
4 local service. Therefore the required conditions do not exist for Qwest's
5 local residential service to be flexibly priced. The Commission should
6 Order that Qwest is not entitled to pricing flexibility for its local residential
7 service in the areas that are addressed in this proceeding.

8

9 Since all of the wire centers which were flexibly priced in the prior case are
10 also included in this case, it is not necessary to take any action outside of
11 this case in order to correct the existing residential pricing flexibility.

12

13 **Q. WHAT ABOUT VERTICAL SERVICES?**

14 A. Almost all vertical services are only available from the same company that
15 provides the customer's local service. If a customer has local service from
16 Qwest, that customer cannot obtain Caller ID on that line from a CLEC.
17 They can only obtain that service from Qwest. Therefore the treatment of
18 the vertical services must follow the treatment of the basic service. In
19 those areas where the local service is not properly flexibly priced, the
20 vertical services should not be either.

21

22 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

23 A. Yes.